

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Eastern Industries, LLC, a New York  
limited liability company,

Plaintiff,

v.

EarthCo Enterprises, LLC, an Arizona  
limited liability company; Thomas Vella  
and Jane Doe Vella, husband and wife,  
Wesley Zlotoff and Jane Doe Zlotoff,  
husband and wife; Dominic Riccobono and  
Jane Doe Riccobano, husband and wife,  
and Jack Thomas Riccobono and Jane Roe  
Riccobono, husband and wife, Scott  
Williams and Jane Doe Williams, husband  
and wife,

Defendants.

Case No. 2:23-cv-00109

**STIPULATED PROTECTIVE  
ORDER OF CONFIDENTIALITY**

*(Assigned to the Hon. Susan M. Brnovich)*

Having received and considered the Stipulated Motion for Protective order of Confidentiality filed by Plaintiff and Defendants (each a “Party” and collectively, the “Parties”), and good cause appearing,

**IT IS HEREBY ORDERED THAT:**

This Protective Order of Confidentiality (“Protective Order”) shall govern the designation and handling of all confidential documents and information produced in this action by any Party, non-party, person, or entity. The following procedure is adopted in

1 this matter for the designation, protection, and handling of confidential or proprietary  
2 information:

3 1. Definition of CONFIDENTIAL INFORMATION. For purposes of this  
4 Protective Order, CONFIDENTIAL INFORMATION means any information in any  
5 format designated by any person or entity (“Producing Party”) who produces documents  
6 in connection with the above-captioned matter as confidential because it contains or is a  
7 trade secret, proprietary business information, personal information, including social  
8 security numbers, or other confidential research, development, or commercial information  
9 as those terms are used in Rule 26(c) of the Federal Rules of Civil Procedure. By way of  
10 example, and not limitation, CONFIDENTIAL INFORMATION may be included in  
11 documents, portions of documents, transcripts, answers to interrogatories, briefs,  
12 summaries, notes, abstracts, motions, drawings, and/or any instrument which comprises,  
13 embodies, or summarizes a matter which a Party considers confidential and desires not to  
14 be made public.

15 2. Designation as CONFIDENTIAL INFORMATION. A Producing Party may  
16 designate such documents or other materials that it reasonably believes – in good faith and  
17 based on legitimate, non-litigation reasons for placing limits on disclosure and access – to  
18 be CONFIDENTIAL INFORMATION as “*CONFIDENTIAL - CASE NO. 2:23-cv-*  
19 *00109.*” Individuals or entities who become parties to this litigation after this Protective  
20 Order is entered shall not have access to, nor shall any of the Parties produce to them, any  
21 CONFIDENTIAL INFORMATION until such other parties, by counsel, have signed and  
22 filed a stipulation agreeing to be bound by this Protective Order or until a further Order is  
23 entered permitting them to have access to such documents.

24 3. Access to CONFIDENTIAL INFORMATION. CONFIDENTIAL  
25 INFORMATION disclosed by a Producing Party and designated “*CONFIDENTIAL -*  
26 *CASE NO. 2:23-cv-00109*” may be disclosed by the receiving Party only to the following  
27 persons (the “Qualified Person[s]”):  
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1 (a) Counsel of record for any Party, including all attorneys of the  
2 counsel's law firm and all paralegal assistants, stenographic, and clerical employees  
3 operating under the direct supervision of such attorneys;

4 (b) Court personnel, including stenographic reporters and certified  
5 videotape operators, engaged in those proceedings that are a necessary incident to the trial  
6 or preparation of this action for trial;

7 (c) The Parties and the Parties' employees, provided that such employees  
8 shall be bound by the terms of this Order with respect to such CONFIDENTIAL  
9 INFORMATION;

10 (d) A deposition witness, provided that any portion of the deposition  
11 transcript that references the CONFIDENTIAL INFORMATION is, itself, designated as  
12 CONFIDENTIAL INFORMATION; and

13 (e) Any outside independent economic, real estate, technical, accounting,  
14 legal, or jury consultants retained or utilized by counsel for the receiving Party for  
15 assistance in the preparation, defense, prosecution, or trial of this action, provided such  
16 outside consultant and/or expert is furnished with a copy of this Protective Order and  
17 executes a written agreement in the form attached hereto as *Exhibit A*, acknowledging that  
18 he or she is familiar with the provisions of this Protective Order and will abide by them.  
19 Each such statement shall be kept by the employing counsel for reference should such  
20 reference become necessary.

21 4. Disclosure of CONFIDENTIAL INFORMATION to Comply with Legal  
22 Obligations. CONFIDENTIAL INFORMATION may be used by a receiving Party to  
23 comply with legal obligations, but if such compliance requires the disclosure of  
24 CONFIDENTIAL INFORMATION to a third party who is not a Qualified Person, the  
25 Party who seeks to disclose such information shall provide reasonable advanced notice of  
26 such intended disclosure to the Producing Party who designated the information as  
27 CONFIDENTIAL INFORMATION. If the Producing Party provides written objections to  
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1 such disclosure of CONFIDENTIAL INFORMATION, the receiving Party shall not  
2 disclose the CONFIDENTIAL INFORMATION absent Court approval.

3 5. Manner of Designating CONFIDENTIAL INFORMATION. Whenever a  
4 document or thing produced by a Producing Party involves a disclosure of information  
5 which the Producing Party deems to be CONFIDENTIAL INFORMATION which it  
6 wishes to be made subject to this Protective Order, the Producing Party shall designate the  
7 document or thing as CONFIDENTIAL INFORMATION at the time it is turned over to  
8 the receiving Party. Such designation shall be made by marking each page of the document  
9 that contains CONFIDENTIAL INFORMATION with the legend "*CONFIDENTIAL -*  
10 *CASE NO. 2:23-cv-00109.*"

11 6. Use of CONFIDENTIAL INFORMATION. All information produced by a  
12 Producing Party which is designated as containing or comprising CONFIDENTIAL  
13 INFORMATION shall be maintained by each receiving Party in confidence according to  
14 the terms of this Protective Order and used by the receiving Party solely: (i) in the  
15 preparation, defense, prosecution, or trial of this action, or (ii) as permitted pursuant to  
16 paragraph 4 hereof. Nothing contained herein shall limit or prevent disclosure or use of any  
17 item of CONFIDENTIAL INFORMATION by the Producing Party who designated the  
18 item CONFIDENTIAL INFORMATION.

19 7. Subject to Jurisdiction. Each person to whom disclosure of any  
20 CONFIDENTIAL INFORMATION is made agrees to subject himself/herself to the  
21 jurisdiction of this Court in which this action is pending for the purpose of proceedings  
22 relating to the performance under, compliance with, or violation of this Protective Order.  
23 This Court retains jurisdiction to amend, modify, or add to this Protective Order, and any  
24 Party may apply to the Court for amendment or modification of or addition to this  
25 Protective Order at any time.

26 8. Witnesses, Jurors, Court Personnel, and Reporters. Designation of  
27 information as CONFIDENTIAL INFORMATION by the Producing Party shall not  
28 prevent the receiving Party from using such CONFIDENTIAL INFORMATION during a

1 deposition in this matter, in a motion or pleading filed with the Court in this matter, or at  
2 trial, and nothing in this Protective Order shall preclude court officials, jurors, or any  
3 certified court reporter retained to transcribe depositions in this case from access to  
4 CONFIDENTIAL INFORMATION during judicial proceedings or depositions in this  
5 action.

6 9. Handling of CONFIDENTIAL INFORMATION. A recipient of any  
7 CONFIDENTIAL INFORMATION that is produced or disclosed pursuant to this  
8 Protective Order shall maintain the same in a secure and safe area, and the recipient shall  
9 exercise the same standard of due and proper care with respect to the storage, custody, use,  
10 or dissemination of all such CONFIDENTIAL INFORMATION as is exercised by the  
11 recipient with respect to its own CONFIDENTIAL INFORMATION. After the final  
12 termination of this matter through a settlement or the entry of a judgment, each receiving  
13 Party shall either destroy or return to the Producing Party any CONFIDENTIAL  
14 INFORMATION.

15 10. Challenge to Designation as CONFIDENTIAL INFORMATION. Any  
16 Producing Party and the Parties shall act in good faith in designating CONFIDENTIAL  
17 INFORMATION. In that regard:

18 (a) The receipt of any document, thing, testimony, or response to an  
19 interrogatory designated as CONFIDENTIAL INFORMATION by the Producing Party  
20 shall not be construed as agreement by the receiving Party that any such document, thing,  
21 testimony, or response to an interrogatory is in fact confidential, and shall not operate as a  
22 waiver of the receiving Party's right to challenge any such designation as provided herein.

23 (b) None of the Parties hereto shall be obligated to challenge the propriety  
24 or correctness of the designation of information as CONFIDENTIAL INFORMATION,  
25 and a failure to do so shall not preclude a subsequent challenge to such status. The burdens  
26 of proof and of persuasion with respect to the propriety or correctness in the designation of  
27 information as CONFIDENTIAL INFORMATION shall rest on the Producing Party.  
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1 (c) In the event of any dispute with respect to the propriety or correctness  
2 of the designation of information, including testimony and documents, as  
3 CONFIDENTIAL INFORMATION, the Parties shall attempt to resolve the dispute by  
4 negotiation. If such negotiations fail to resolve the dispute, the Producing Party shall file a  
5 motion for an appropriate order within ten (10) days of a written demand from the  
6 challenging Party. The information shall be treated as confidential until the issue is  
7 resolved by agreement of the Parties or order of the Court. Failure of the Producing Party  
8 to timely file an appropriate motion as described herein shall be deemed to be acquiescence  
9 to the objection and a waiver of the confidentiality designation.

10 11. All Other Objections Preserved. This Protective Order is intended to provide  
11 a mechanism for the handling of CONFIDENTIAL INFORMATION to which there is no  
12 objection to producing or disclosing other than as to its confidentiality. Each Party reserves  
13 the right to object to any disclosure of information or the production of any document it  
14 deems confidential on any other ground it may deem appropriate. However, neither the  
15 taking of any action in accordance with the provisions of this Protective Order, nor the  
16 failure to object thereto, shall be construed as a waiver of any claim or defense in this  
17 proceeding. The entry of this Protective Order shall not be construed as a waiver of any  
18 right to object to the furnishing of information in response to discovery and, except as  
19 expressly provided, shall not relieve any Party of the obligation to produce information in  
20 the course of discovery.

21 12. Inadvertent Failure To Designate As CONFIDENTIAL INFORMATION. If  
22 a Producing Party inadvertently discloses to a receiving Party any document, thing,  
23 testimony, or information containing information that it deems confidential without  
24 designating it as CONFIDENTIAL INFORMATION, the Producing Party shall promptly  
25 upon discovery of such inadvertent disclosure inform the receiving Party in writing and the  
26 receiving Party shall thereafter treat the document, thing, testimony, or information as  
27 CONFIDENTIAL INFORMATION under this Protective Order. To the extent such  
28 document, thing, testimony, or information may have been disclosed to persons other than

1 authorized persons described in this Protective Order, such disclosure shall not constitute  
2 a violation of this Protective Order, but the receiving Party shall make every reasonable  
3 effort to retrieve the document, thing, or information promptly from such persons and to  
4 limit any further disclosure to non-authorized persons.

5 13. Scope of Order. Any non-party to this action or a litigant not included as a  
6 Party to this Protective Order who shall be called upon to make discovery or to provide  
7 deposition or other testimony shall be entitled to avail itself of the provisions and  
8 protections of this Protective Order only with the written consent of the Party seeking such  
9 discovery and the signing of an agreement to be bound by this Protective Order, and, by  
10 doing so, assumes the duties and obligations imposed upon the Parties by this Protective  
11 Order.

12 14. Amendment of this Order by Agreement. This Protective Order may be  
13 amended without leave of Court by the agreement of counsel for the Parties in the form of  
14 a stipulation that shall be filed in this case.  
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**EXHIBIT A**

I, \_\_\_\_\_, hereby acknowledge that I have received and read a copy of the *Stipulated Protective Order of Confidentiality* entered in Cause No. 2:23-cv-00109 in the United States District Court of Arizona, and I agree to comply with and be bound by the provisions of the *Stipulated Protective Order of Confidentiality*.

DATED \_\_\_\_\_.

Signature: \_\_\_\_\_

Warner Angle Hallam Jackson & Formanek PLC